

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PHILIP D. MITCHELL,)	
)	
Plaintiff,)	
)	
vs.)	CAUSE NO. 4:09-CV-01905
)	
PALISADES COLLECTION LLC,)	
)	
Defendant.)	

ANSWER TO PETITION AND AFFIRMATIVES DEFENSES

NOW COMES Defendant PALISADES COLLECTION LLC, by and through its undersigned counsel, and for its Answer and Affirmative Defenses states as follows:

1. The Plaintiff(s) states he has a claim against the Defendant(s) in the amount of \$3,000 plus court costs. The claim arose on or about October 7, 2009, as a result of the following events: *Palisades Collection, LLC, a New Jersey Corporation, is a collection agency attempting to collect an alleged debt that is in dispute. On December 31, 2007, USPS Certified Mail was delivered to Palisades Collection, LLC communicating the following instructions in writing: "Please limit your communication with me in writing only. If I receive any telephone calls from your company they will be considered intentional harassment." On Wednesday, October 7, 2009 at 1:48PM CDT and again on Saturday, October 10, 2009 at 7:59 PM DCT, Palisades Collection, LLC called plaintiff's residence and did leave recorded voice mail messages concerning an attempt to collect an alleged debt. Palisades Collection, LLC is in violation of the Fair Debt Collection Practices Act, under section # 805, sub-section (C). "CEASING COMMUNICATION. If a consumer notifies a debt collector in writing ... that the consumer wished the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with respect to such debt..."*

ANSWER: Palisades admits that this action purports to state a claim under the FDCPA, and that a portion of the FDCPA quoted in Paragraph 1 accurately restates a portion of the language contained in the FDCPA. Palisades further admits that it is a corporation located in New Jersey. Palisades denies the remaining allegations contained in Paragraph 1.

AFFIRMATIVE DEFENSES

First Affirmative Defense

1. For further answer and affirmative defense, Defendant states that any violation of the FDCPA, which Defendant denies occurred, was the result of factors beyond Defendant's control and in spite of procedures in place reasonably adapted to prevent such violations.

Second Affirmative Defense

2. For further answer and affirmative defense, Defendant states that any damages which the Plaintiff incurred as a result of the underlying lawsuit were caused, either wholly or in part, by the negligence, action or inaction of another individual. As such, any recovery to the Plaintiff should be barred or reduced or apportioned according to the relative fault, if any, of all parties responsible.

Third Affirmative Defense

3. For further answer and affirmative defense, Defendant states that any injuries to the Plaintiff were the sole and proximate cause of the Plaintiff's own intentional or negligent conduct, act, or omissions. As such, any recovery to the Plaintiff should be barred or reduced accordingly and proportionately.

Fourth Affirmative Defense

4. For further answer and affirmative defense, Defendant states that Plaintiff's Petition fails to state any claim upon which relief may be granted.

Fifth Affirmative Defense

5. For further answer and affirmative defense, Defendant states that any damages incurred by the Plaintiff, which Defendant denies exist, should be barred or reduced because of Plaintiff's failure to mitigate his damages.

WHEREFORE, Defendant Palisades Collection, LLC, respectfully requests that this Honorable Court grant judgment in its favor on Plaintiff's Petition, dismiss this suit in its entirety, and for such other and further relief as this Court deems just and proper.

HINSHAW & CULBERTSON LLP

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was electronically filed with the clerk of the court and served via the court's CM/ECF system on all parties receiving ECF notices and was placed in a sealed envelope, clearly addressed, with proper postage fully prepaid, and deposited in the United States Mail at St. Louis, Missouri, on this 19th day of November, 2009, addressed to the following party of record:

Philip D. Mitchell
932 Latigos Trail
St. Louis, MO 63131
PLAINTIFF

_____/s/ Melissa M. Wood